



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

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**Draft Minutes Zoning Board of Adjustment  
July 26, 2016  
7:30pm @ Community Development Department**

**Mark Samsel, Chairman** - present

**Mike Mazalewski, Alternate** - excused

**Heath Partington, Vice Chair** - present

**Kevin Hughes, Alternate** - present

**Pam Skinner, Secretary** - present

**Jim Tierney, Alternate** - excused

**Mike Scholz, Member** - present

**Jay Yennaco, Alternate** - excused

**Bruce Breton, Member** - present

**Staff:**

Dick Gregory, ZBA Code Enforcement Administrator

Andrea Cairns, Minute Taker

Meeting called to order at 7:31p.m. by Chairman Samsel.

Chairman Samsel reviewed the process for the public.

**Lot 11-A-520 & 530 Case # 23-2016**

**Applicant**-The Dubai Group

**Owner**-Village Center Properties, LLC

**Location**- 13 & 15 Indian Rock Road

**Zoning District**-Village Center District and Wetland & Watershed Protection District (WWPD).

Variance relief is requested from **Section 706.8** for two (2) free standing signs. Sign A on lot 11-A-530 to be (10) ft. high and 39 sq. ft. in area and Sign B on lot 11-A-520 to be 12 ft. high and 60 sq. ft. in area in the Village Center District, where the maximum height is 5 ft. and the maximum area is 16 sq. ft. per lot.

Ms. Skinner read the case and abutters list into the record.

*Christopher McCarthy, 17 Nottingham Rd.*

Mr. McCarthy presented the case. He is a long-time resident and was on the village district subcommittee helping craft the vision to create something they can be proud of.

Also present was Luke Bouchard with Enterprise Bank – they will be the first tenant.

Mr. McCarthy noted the lots are 13 and 15 Indian Rock Road. The bank is on lot 15. They did a lot of work with multiple committees and incorporated a lot of feedback. The final application will go before the planning board on August 3rd. They were there to present an application for signage. They met with the design review subcommittee who provided them feedback that they incorporated into the final design. Mr. McCarthy provided an updated set of plans. The design review

subcommittee asked them to make changes to colors and fonts. They tried to create something that is simple elegance. The problem they have in the village center is that the ordinance caps them at a size similar to that of B&H, which is difficult to read. Snow mounds are often 4-5', which create lack of visibility. Mr. McCarthy demonstrated the size of their sign in comparison to other signs in the village center. He added they moved back the buildings further from Rt. 111 so the retail spaces will have less visibility off Rt. 111. The existing Travis Building in front of the property serves as a visibility blocker from where Enterprise Bank will go. They hope to get the sizes approved so they can get the signs up.

Mr. Partington questioned if the sign size requirements changed at all during the village center committee meetings. Mr. McCarthy noted the sign discussions were around signs for internal roads. Mr. Breton noted they did discuss it which is why B&H is the size it is.

Chairman Samsel questioned what the design review subcommittee did. Mr. McCarthy explained it was a subcommittee to the planning board that controls the town's regulations for architecture. They look at landscaping, building materials, color schemes and overall look and feel of the sign. They were very supportive.

Some of the changes they requested were adding a numerical number, as well as a written number. They had a different font and changed some of the colors. They asked for borders around each individual business sign. The letters will be 8" and the font was changed to something that was more readable. The size of the sign is 49.3 sq. ft. for the larger sign and 32 sq. ft. on for the smaller sign.

Mr. Scholz acknowledged he missed one of the meetings, but thought the lot was going to be combined into one lot, but this plan talks about keeping the lot lines. Mr. McCarthy noted they always intended on keeping the two separate, but there is one site plan. The project is being done on two lots with easement access.

Karl Dubay noted the intent was always to keep the lots the way they were. There was no relief requested relative to lot lines, the variance was for a total WWPD impact for the entire site. The existing lot lines were to stay and nothing was to change. The village center district has flexible zoning.

Mr. Scholz needed that clarification because they are requesting two signs.

Mr. Dubay explained they are allowed to have backplates, which make the signs even larger, sometimes double what would be allowed. They are not using large backplates. The sign is internally illuminated, but only the letters in the graphic and the corporate logo will be illuminated. They want to make sure they have community buy-in on this design and have worked with many committees to get to the point they are at.

Mr. Dubay noted that Luke Bouchard from Enterprise Bank has been very involved. They are making a substantial commitment to the town. Their portion of the sign is only going to be 12" high.

When they created the village center district, they did not have time to look at the signage ordinance because it was too complicated. The Rt. 111 traffic vs. the rest of the district is very different.

Businesses like Dunkin Donuts have the benefit of canopies, which serve as additional signage. Their building is much different.

Mr. Breton suggested they recommend to the planning board to change the way the sign ordinance is, so they do not have non-conforming signs all the way down the street. Mr. Dubay noted they did spend a significant amount of time on the sign ordinance when creating the district. The intent was to have smaller signs, but the traffic on Rt. 111 has almost doubled and they did not contemplate the unique characteristics of that particular lot.

Chairman Samsel asked for the frontage and distances between the signs. Mr. Dubay noted the side setbacks are 50'. The distance between the two signs is roughly 260' in separation. The distance between the pavement and the signs is at least 20' for the bank and the other sign is about 40'.

Mr. Dubay reviewed the five points.

Mr. Dubay noted they did request relief for the illumination of the letters. He did not see that on the agenda and asked Mr. Gregory if that was on the notice to abutters.

Chairman Samsel questioned if they were held to the colors that were presented on this plan. Mr. Dubay noted they were since it was part of the site plan approval process. The colors of the bank are specific to the business, but the actual color of the sign is what they are putting on the site plan and they would be in violation of the site plan if it changed.

Mr. Breton noted that Dunkin Donuts had the logo taken off their canopy and added that Mr. Dubay mentioned that the size requirement is a hardship, but B&H has the same amount of traffic and the size of their sign is smaller.

Mr. Scholz noted that relief from 706.4.3.3 is missing from the application but Mr. Dubay made reference to it and questioned if the agenda and notice to the abutters included that. Mr. Gregory noted it was not in the notice. Mr. Scholz noted any discussion on illumination would need to be revisited so it could be properly noticed.

Mr. Breton suggested they continue the hearing and notify the abutters for both. Chairman Samsel noted it was on the application. Would they have had more people if the illumination was included? If someone had an interest in the sign, they would have been at the hearing. There is not much difference in what they are asking for and it was on the application. He added in the past, their attorney stated as long as the language on the agenda was close enough to the discussion, they could continue. The agenda stated they were discussing signage; illumination could be included as part of that.

Mr. Partington noted he remembered a hearing where there was a discrepancy in the lot number vs. the address being noticed. He does not remember hearing a specific variance request that was not noticed to abutters. He does not want to make the assumption that illumination is not important to everyone.

Mr. Dubay noted they do not want to make a new application. He thinks it would be fair to renotify abutters for what was not included. They would ask the board to go with a date specific continuance

of only the illumination with abutter notification. He does not want to have to reapply and wait for everything all over again.

Mr. Breton would rather continue the hearing, based on the new plans, which were provided that night, renotify abutters and start where they left off.

Chairman Samsel noted they heard testimony on 706.8. He is inclined to make a decision on 706.8 and have a separate hearing for 706.4.3.3. He does not want to repeat what they have gone through over the last hour.

The board felt they should continue the hearing to the next meeting and make it the first hearing.

Chairman Samsel opened the hearing to the public.

*Angela Shea, 29 Oriole Rd.*

Ms. Shea questioned how many signs would be allowed for the abutters to the property. Is each lot allowed to have a sign? The volume of signs seems high. Driving by trying to read each one is a public safety concern. The sign they are proposing seems nice, but has concerns with the volume of signs on that road.

Chairman Samsel suggested she bring her concerns to the planning board, which control those regulations.

Mr. Breton noted that if every property went by the regulations, they would be the size of B&H and they would not need relief from the zoning board.

*Tom Case, 70 Mountain Village Rd.*

They have a request for dimensional relief on signs. He thinks it is the board's obligation to rule on what they have before them tonight; not illumination.

Mr. Breton noted if they do not continue the hearing, they would need to reapply and start all over again. Mr. Dubay chose to post it correctly and continue the hearing.

**MOTION: Mr. Breton made a motion to continue the hearing to August 9, 2016 as the first item on the agenda.**

**Mr. Scholz seconded the motion.**

**No discussion**

**Vote 5-0**

**Motion carries**

**Lot 11-A-570 & 580, Case #19-2016**

Request for re-hearing of decision made on 6-14-2016

Chairman Samsel stated it was a public meeting but for this rehearing request they do not entertain input from the public. For rehearing requests they only determine if technical errors were made or if there was new information presented that was not otherwise known at the time of the previous hearing. The board reviewed the rehearing request:

1. a. No technical errors, no new information  
b. No technical errors, no new information  
c. No technical errors, no new information  
d. No technical errors, no new information  
e. No technical errors, no new information  
f. No technical errors, no new information  
g., i. No technical errors, no new information  
g., ii. No technical errors, no new information
2. No technical errors, no new information
3. No technical errors, no new information
4. No technical errors, no new information

Chairman Samsel noted for the public, they need to pay attention to what is happening in their district. When developers and neighbors work together on a proposal, the outcome is generally amenable to all parties. In this case that did not happen.

**MOTION: Mr. Partington made a motion to deny the rehearing request for Lot 11-A-570 & 580, Case #19-2016.**

**Mr. Scholz seconded the motion.**

**Vote 4-1. Mr. Breton opposed.**

**Motion carries.**

There was a resident present that noted they emailed a letter to the board regarding a meeting that residents had with the developer. The letter was emailed after the public hearing.

Mr. Partington noted they could not take any public testimony after the hearing so they would not have been able to consider it. Chairman Samsel noted it should have been brought to the original meeting.

The resident noted he appreciates the logic, but the letter is a result of the meeting they had with the developer. Mr. Scholz noted the developer could submit a new application if the project has changed. Mr. Breton noted that they should have emailed the letter to the developer and asked him to provide that information as part of his packet.

Mr. Partington noted they were beyond the 30 days so any rehearing request would have to go to the courts. Mr. Scholz noted there were very specific criteria for appeals and would recommend he discuss it with legal council.

#### **Meeting Minutes – Review and Approve**

##### **7/12/16 Minutes**

**MOTION: Mr. Breton made a motion to approve the 7/12/16 minutes as amended.**

**Mr. Partington seconded the motion.**

**No discussion**

**Vote 5-0**

**Motion carries.**

235  
236 The board requested that Mr. Gregory contact Attorney Campbell to determine what needed to be  
237 included in the notice of decision and find out how much detail he would want in the minutes for a  
238 rehearing request discussion.  
239  
240 **MOTION: Mr. Scholz made a motion to reconsider the minutes of 6/14/16 for an amendment.**  
241 **Mr. Breton seconded the motion.**  
242 **No discussion.**  
243 **Vote 5-0.**  
244 **Motion carries.**  
245  
246 **MOTION: Mr. Breton made a motion to approve the 6/14/16 minutes as amended.**  
247 **Mr. Scholz seconded the motion.**  
248 **No discussion.**  
249 **Vote 5-0.**  
250 **Motion carries.**  
251  
252 Mr. Gregory noted it was his mistake that the lighting wasn't included in the abutters notice for the  
253 sign, but every applicant gets a copy of what he sends out before he sends it and they didn't catch  
254 the mistake either.  
255  
256 Chairman Samsel noted the town is being taken to court. The date is 9/20/16 a 9:00 a.m. at  
257 Rockingham Superior Court. Chairman Samsel will attend that hearing.  
258  
259 Mr. Gregory noted that Mr. Yennaco's term expired.  
260  
261 **MOTION: Mr. Scholz made a motion to reappointed Mr. Yennaco for a term expiring**  
262 **5/31/19.**  
263 **Mr. Breton seconded the motion.**  
264 **No discussion.**  
265 **Vote 5-0.**  
266 **Motion carries.**  
267  
268 **MOTION: Mr. Scholz made a motion to adjourn at 10:10 p.m. Ms. Skinner seconded the**  
269 **motion.**  
270 **Vote 5-0-0.**  
271 **Motion passes.**  
272  
273 **Submitted by Andrea Cairns**